

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In Re:

Darrell G. Ruse and Christy A. Ruse,

Debtors.

Darrell G. Ruse and Christy A. Ruse,

Plaintiffs,

v.

Pushpin Holdings, LLC, a New York Limited
Liability Company, and Lease Finance Group,
Inc., a Minnesota corporation.

Defendants.

Case No. 09-64664-tmr13

Case No. 09-64664-tmr13

COMPLAINT FOR
"VIOLATION OF THE AUTOMATIC STAY

Plaintiffs, by and through their attorney, Kent Anderson, allege the following:

1.

This adversary proceeding is one arising out of the debtors' bankruptcy case No. 09-64664-tmr13, filed under Chapter 13 of Title 11 now pending in this Court. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §157, and 1334, and 11 U.S.C.

Page 1 – Amended Complaint for Violation of the Automatic Stay

KENT ANDERSON LAW OFFICE
888 West Park Street
Eugene, Oregon 97401
(541) 683-5100

1 §523. The action for violating the automatic stay is a core proceeding under 28 U.S.C.
2 §157(b)(2).

3 2.

4 This is an action for damages brought by Plaintiffs Darrell G. Ruse and Christy A. Ruse
5 against Defendants, Pushpin Holdings, LLC and Lease Finance Group, Inc., for violation of the
6 automatic stay entered pursuant to 11 U.S.C. §362 in Plaintiffs' bankruptcy proceeding.

7 3.

8 Plaintiffs filed for Chapter 13 bankruptcy protection on August 28, 2009. Lease Finance
9 Group, Inc., was listed in Plaintiffs' Schedule F, through their designated collection agent, and in
10 the mailing matrix submitted to the court on August 28, 2009.

11 4.

12 Lease Finance Group, Inc. was notified and had knowledge of the filing by Plaintiffs of
13 the above bankruptcy proceeding in August, 2009.

14 5.

15 Defendant Lease Finance Group, Inc., transferred all right, title and interest in the
16 commercial lease agreement and personal guarantees associated therewith to Pushpin Holdings,
17 LLC, as set forth in the demand letter sent to Plaintiff Darrell Ruse dated December 12, 2011,
18 and attached hereto as Exhibit "1".

19 6.

20 On or about December 12, 2011, Defendant Pushpin Holdings, LLC, sent a letter (see
21 Exhibit "1") demanding payment of a prepetition debt to Plaintiff Darrell Ruse. The letter was
22 received on or about December 19, 2011.

23 7.

24 Debtors' attorney's office sent a letter to Pushpin Holdings, LLC, on December 20, 2011,
25 advising of the current Chapter 13 case status, and that their collection attempts were in direct
26 violation of the automatic stay. A copy of that letter is attached hereto as Exhibit "2".

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8.

Despite having been specifically notified by counsel that there actions were in violation of the automatic stay, Defendant Pushpin Holdings, LLC, sent a “Final Demand” to Plaintiff Darrell Ruse dated October 17, 2012, demanding payment of the alleged balance due, default interest, court costs and attorney fees unless payment in the amount of \$1,401.40 was received within ten days. Further, the Final Demand indicated the “delinquency” had been reported to the credit bureaus as a charge off or collection account. A copy of Defendant’s Final Demand is attached hereto as “Exhibit 3”.

First Claim for Relief (against Lease Finance Group, Inc.)

(Willful Violation of Automatic Stay)

9.

Plaintiffs reallege paragraphs 3 through 8 above.

10.

Defendant Lease Finance Group, Inc.’s attempt to collect a debt by engaging as its collection agent Pushpin Holdings, LLC with knowledge of the bankruptcy proceeding is a willful violation of the automatic stay, 11 U.S.C. §362(h).

11.

Defendant Lease Finance Group, Inc.’s action in violation of the Automatic Stay has caused Plaintiffs damages in the form of emotional distress, lost work time, and attorney fees.

Second Claim for Relief (against Pushpin Holdings, LLC)

(Willful Violation of Automatic Stay)

12.

Plaintiffs reallege paragraphs 3 through 8 above.

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13.

The attempt by Defendant Pushpin Holdings, LLC to collect a debt by sending Plaintiffs a collection letter on or about December 12, 2011, when Defendant had knowledge of the bankruptcy proceeding is a willful violation of the automatic stay, 11 U.S.C. §362(h).

14.

Defendant Pushpin Holdings, LLC continued their willful disregard of the automatic stay by sending Plaintiffs their Final Demand for payment on October 17, 2012, despite having been notified previously of the active Chapter 13 case by counsel.

15.

Defendant Pushpin Holdings, LLC's violation of the Automatic Stay has caused Plaintiffs damages in the form of emotional distress, lost work time, and attorney fees.

* * * * *

WHEREFORE, Plaintiffs Darrell Ruse and Christy Ruse respectfully request that judgment be entered against Defendants Lease Finance Group, Inc., and Pushpin Holdings, LLC for the following:

- A. Declaratory judgment that Defendants' conduct violated the Automatic Stay;
- B. Actual damages;
- C. Costs and reasonable attorney's fees pursuant to 11 U.S.C. §362 (h);
- D. An Order enjoining Lease Equipment Group, Inc., and Pushpin Holdings, LLC, from attempting to collect this debt;
- E. Punitive Damages in the amount of \$5,000 from Defendant Lease Equipment Group, Inc., for Defendant's willful violations;

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1 F. Punitive damages in the amount of \$5,000.00 from Defendant Pushpin
2 Holdings, LLC, for Defendant's willful violations; and,

3 G. For such other and further relief as the Court may deem just and proper.

4 DATED this 27th day of November, 2012.

5 KENTANDERSON LAW OFFICE

6
7 BY: /s/ Kent Anderson
8 Kent Anderson, OSB #78-125
9 Of Attorneys for Debtors/Plaintiffs
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DARRELL RUSE
815 ARROW LEAF AVE
HARRISBURG OR 97446-9668

EXHIBIT:

PAGE:

KENT ANDERSON LAW OFFICE

888 WEST PARK STREET
EUGENE, OREGON 97401

PHONE (541) 683-5100
FAX (541) 484-1754

December 20, 2011

Pushpin Holdings LLC
1 Penn Plaza
PO Box 6255
New York, NY 10119

RE: Darrell & Christy Ruse
Chapter 13 Case No. 09-64664-fra13
Our File No. 5368-1
Lease Finance Group Lease No. 001-0669674-000
Your Lease No. 1338112

To Whom It May Concern:

Please be advised that this office represents Darrell and Christy Ruse with regard to the above-referenced Chapter 13 bankruptcy proceeding filed August 28, 2009.

The Debtors are in receipt of your demand for payment dated December 12, 2011, on behalf of Lease Finance Group. As you may be aware, collection of this account is in direct violation of the automatic stay and further attempts will result in the filing of an adversary proceeding. If you have any questions, you should consult with your legal counsel.

Very truly yours,

Lynn Seitz,
Legal Assistant

LS:
cc: clients

EXHIBIT: 2
PAGE: 1 of 1



October 17, 2012

DARRELL RUSE
815 ARROW LEAF AVE
HARRISBURG OR 97446-9668

Lease Number: 1338112 (lease number with Lease Finance Group: 001-0669674-000)

Re: Equipment Lease Agreement

Outstanding Balance: \$1,401.40

Dear Darrell Ruse,

You have failed to respond to our previous Demand For Payment. By copy of this letter, we are directing our attorneys to **commence a civil action against you** to recover all monies due under the lease agreement and applicable law, including **default interest, courts cost and attorney's fees** as may be appropriate, unless you promptly pay the outstanding balance of **\$1,401.40** **within ten (10) days from the date of this letter.**

Please be advised that **your delinquency has been reported to the credit bureaus as a chargeoff or collection account by LEASE FINANCE GROUP** and is reflected on your credit report. Once your outstanding balance is paid in full, we will notify the credit bureaus that the outstanding balance has been paid.

Please send your payment in the amount of **\$1,401.40** to the address stated below **within ten (10) days from the date of this letter**. Please write your lease number on your check or money order. Payment can also be made via CREDIT CARD, DEBIT CARD, CHECK BY PHONE, WESTERN UNION or overnight delivery using our FEDERAL EXPRESS service. Please contact me to use any of the payment methods mentioned above.

I may be reached at (888) 271-4480.

Please govern yourselves accordingly.

Sincerely yours,

Silvana Roberson
Account Manager
Legal Collections Department

EXHIBIT:

PAGE: